

Agenda item: 01

Staff person handling: Sandra Straehl

Date/location: August 11 in Baker, MT

Item: **Railroad crossing – Willow Creek**

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### **Background**

Montana Rail Link (MLR) has requested that the Montana Department of Transportation upgrade the crossing surface at Willow Creek. The improvement will be funded with Surface Transportation Secondary funds (STPS). The existing surface crossing is concrete and in very poor condition. Under this proposal MDT would replace the existing crossing surface with new concrete. The site is located in Gallatin County on Secondary Highway 287, east of Willow Creek at approximately RP 4.408.

This is a stand-alone site, which means the Surface Transportation Program Secondary (STPS) funds will pay for the materials and the railroad authority will install the surface at their cost. The estimated construction cost is \$26,400 to MDT for materials only; MRL will contribute the labor to construct the site as consistent with MDT policy.

### **Summary**

MDT has the opportunity to partner with MRL in improving the railroad crossing east of Willow Creek. MDT would pay for the materials (approximately \$26,400) and the railroad would be responsible for construction. No project within the Secondary Program will be impacted because of this expenditure.

### **Staff recommendations**

Staff recommends the commission approve the addition of this project to the program.

### **Notes/discussion**

### **Commission action**

Agenda item: 02

Staff person handling: Sandra Straehl

Date/location August 11, 2004 in Baker, MT

Item: **Bridge Decks – Helena**

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### **Background**

The Bridge bureau has proposed a project for preservation of two bridge decks in Helena. The scope is to apply high molecular weight methacrylate (HMWM) sealant to preserve the new bridge decks. The bridges are located on North Main Street at RP 0.77 over Montana Rail Links tracks and on Cedar Street at RP 1.82 over Interstate 15. The Bridge bureau considers this project critical for the preservation of these new bridge decks. The project is estimated at \$57,000. Congestion Mitigation and Air Quality (CMAQ) funds will be used to fund this project.

### **Summary**

The Bridge bureau in coordination with the Great Falls district proposes a bridge deck seal project. Planning agrees to allocate statewide CMAQ funds to this project.

### **Staff recommendations**

Staff recommends the Transportation Commission approve the addition of this project to the program.

### **Notes/discussion**

### **Commission action**

Agenda item: 03

Staff person handling: Sandra Straehl

Date/location: August 11 in Baker

Item: **Dupuyer-SE design-build pilot project**

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### **Background**

The Record of Decision (ROD) for the Fairfield to Dupuyer corridor study is now completed and signed. The goal of the study was to identify alternatives that provide necessary geometric improvements while minimizing impacts to the surrounding built and natural environments. The **Dupuyer-SE** project has been identified as the northern-most segment of the study area beginning 0.4 miles south of Dupuyer and continuing south to near the Pondera/Teton county line.

The project begins at reference post (RP) 75.3 just south of Dupuyer. The build alternative involves reconstructing the route, offset by approximately 50 feet east of the existing centerline and making minor corrections to several curves. Alternative N picks up at RP 73 and mostly follows the existing alignment. Four curves at RP 70.3, 70.5, 72.3, and 72.8 would be brought up to standards. A 36-foot wide roadway is recommended to accommodate bicycle traffic. Three bridges are currently in the project limits. Two will be replaced and the third will be replaced with a box culvert. This project will be funded with Surface Transportation Program Primary (STPP) and Bridge Replacement (BR) funds.

This project has been identified as a design build pilot project authorized by MCA, Sections 60-2-134 through 60-2-137 and Federally by 23 CFR Parts 627, 635, 636, 637 and 710. The design-build combines into a single contract the design, construction, construction engineering and inspection, and acceptance requirements for a project, all in accordance with MDT design standards, specifications and contract administration practices. These projects allow the design-build contractor to participate in the design as a means to reduce costs and expedite construction.

The design-build process needs MDT preliminary engineering for limited survey and mapping; approximate sizes and locations of major bridges and/or drainage structures; preliminary geotechnical investigations; utility identification and locations; identification of any environmental permits, mitigation and MDT commitments; and enough design and alignment information to define a preliminary 'footprint' that can be used to acquire the necessary right-of-way. MDT will provide all right-of-way services for the design-build pilot project program and purchase the project corridor before the contract is let.

### **Summary**

Staff is asking the commission to approve a preliminary engineering program of \$550,000 for MDT staff to complete the preliminary engineering necessary to define the scope and bid package for the project as well as acquiring needed right-of-way.

**Staff recommendations**

Staff recommends the Transportation Commission approve the allocation of \$550,000 for MDT preliminary engineering cost with the intent to advance this project to the right-of-way purchase phase.

**Notes/discussion****Commission action**

Agenda item: 04

Staff person handling: Sandra Straehl

Date/location: August 11, 2004 in Baker, MT

Item: **Update on reauthorization and appropriations issues**

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### **Background**

The Federal-aid program needs to be authorized as well as funded in annual appropriations acts. The most recent authorization (TEA-21) expired at the end of September 2003, and has been extended in multiple short-term extensions since that time. Consequently, the distribution of FY 2004 obligation authority has come to the state in small distributions, since it is tied directly to the program being authorized.

In a normal year, the total available funding for the fiscal year is known by late in the calendar year. This year, states still do not know the total funding available for the fiscal year in mid-August. This update will discuss issues that have surround this level of uncertainty in highway funding including:

- Update on reauthorization of federal transportation programs.
- Update on current extension through September 24, and Department of Defense correction.
- Update on advance construction.
- Update on P3 and STIP development.

### **Notes/discussion**

### **Commission action**

Agenda item: 05

Staff person handling: Sandra Straehl

Date/location: August 11, 2004 in Baker, MT

Item: **2005 – Proposed Highway Projects**

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### **Background**

The Montana Department of Transportation is required by federal law to develop a Statewide Transportation Improvement Program (STIP) every other year. MDT has historically exceeded federal requirements by submitting a STIP every year to the Transportation Commission to provide the most current information. This document contains a list of all project phases to be programmed during the upcoming federal fiscal year.

This year, MDT intended to use a new integrated system designed to network the management systems as well as produce the STIP. Due to technical difficulties and data inconsistencies, however, the integrated system will not be able to produce the STIP.

It is still necessary to continue loading projects into the program to ensure future projects consistent with performance programming analysis are developed as funding becomes available. Consequently, this year the new projects entering the program will be included in a STIP amendment if approved by the commission. This item includes a list of all future projects we plan to advance to preliminary engineering and request commission approval at this time.

The department has addressed public involvement by placing the list of proposed projects on the Internet and sending notice of the website to recipients of the *Newsline* via an insert in early July (attached) and to members of the general public through governmental agencies whose addresses are in our agency's mailing database. The project list is consistent with the funding analysis and distribution determined by the Performance Programming Process (P<sup>3</sup>) approved by the commission in October 2003. There is a mix of project types, including the extent of new rehabilitation projects recommended by P<sup>3</sup>. All projects have been nominated by the districts.

### **Summary**

By approving the project list, the commission will be directing staff to generate ready dates for the projects, which will allow the projects to be considered when the Tentative Construction Program (TCP) is developed later this year. By including these projects in the STIP amendment, the commission will have an increased candidate pool of projects for the TCP- that are consistent with P<sup>3</sup> system analysis.

**Staff recommendations**

Staff recommends the commission approve the addition of these projects to the program: \$2.2 million in partial preliminary engineering (PE) through this STIP amendment. Full PE, estimated at \$18.4 million (this includes the \$2.2 million in partial PE), is to be programmed over the next two years.

**Notes/discussion****Commission action**

Agenda item: 06

Staff person handling: Sandra Straehl

Date/location: August 11, 2004 in Baker, MT

Item: **System improvements – related to access for private development**

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### **Background**

The following improvements are related to private development requests for access to state-maintained roadways. The improvements will offset the impacts caused by the development's additional trip generation and vehicle movements resulting from allowing access.

#### *Silver Creek Commercial Subdivision*

MDT has received a request for access to Montana Secondary 279 (Lincoln Road). The access will serve a proposed 24 lot commercial subdivision located north of Lincoln Road between Interstate 15 and Montana Avenue, Lewis & Clark County. As a condition for access the developer has submitted a traffic impact study and recommends the installation of a left turn bay on Lincoln Road to safely accommodate eastbound left turning traffic.

#### *Riverside at Whitefish*

MDT has received a request for access to National Highway Route 38 (Montana 40) between the intersections with US 93 and US 2, southeast of Whitefish. The access will serve a proposed 220-acre mixed-use development, including single unit residential, multi-family homes, sports complex, and commercial development. As a condition for access, the developer has submitted a traffic impact study and recommends the installation of a left turn bay on Montana 40 to safely accommodate eastbound left turning traffic.

### **Summary**

MDT's district offices and traffic engineering section have reviewed the traffic impact studies submitted for these developments and agree with the recommendations to install left turn bays at the proposed locations. The developers are responsible for funding, letting and administering these projects. Construction would be inspected for consistency with MDT standards.

### **Staff recommendations**

Staff recommends the Transportation Commission approve the installation of left turn bays at the approaches for the Silver Creek Commercial Subdivision and the Riverside at Whitefish development and recommends the commission delegate its authority to allow the developers to let the projects, pending concurrence by MDT's chief engineer.

### **Notes/discussion**

### **Commission action**

Agenda item: 07

Staff person handling: Sandra Straehl

Date/location: August 11, 2004 in Baker, MT

Item: **Big Sky Trail – Montana Highway 64**

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### **Background**

The Big Sky Community Corporation has requested permission to construct a bicycle/pedestrian trail along Montana Highway 64, within MDT highway right-of-way, for a 2.27-mile segment from Meadow Village to the intersection of Montana Highway 64 and US Highway 191.

The proposed trail will consist of a permanent 8-foot wide gravel top, two bridges spanning the West Fork of the Gallatin River, slope treatments, and the construction of retaining structures.

The project will be entirely funded and administered by the Big Sky Community Corporation. Gallatin County has agreed to sponsor the project and has agreed to accept maintenance responsibility for the trail.

If approved, MDT will develop and enter into an agreement with Gallatin County and the Big Sky Community Corporation to define the roles and responsibilities concerning funding, environmental review, design, construction, and future maintenance of the trail.

### **Staff recommendations**

Staff recommends the Transportation Commission approve the Big Sky Community Corporation's request to place a bicycle/pedestrian trail within Montana Highway 64 right-of-way and recommends the commission delegate its authority to allow the Big Sky Community Corporation to let the project, pending concurrence by MDT's chief engineer and the execution of an acceptable agreement among all parties.

### **Notes/discussion**

### **Commission action**

Agenda item: 08

Staff person handling: Sandra Straehl

Date/location: August 11, 2004 in Baker, MT

Item: **Off-system construction project using CMAQ funding in Missoula County**

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### **Background**

Missoula County has designed using local funds and intends to build an off-system transportation improvement project using its allocated federal CMAQ and local matching funds. Listed below is the location, scope and estimated cost of the project along with a location map. The project will be designed and constructed with input and concurrence from MDT staff.

The commission initially approved the project on May 30, 2002 however delegation of authority was not requested at that time.

### **Summary**

On behalf of Missoula County and in accordance with MCA 60-2-111 and 7-14-4108, staff is requesting that the Transportation Commission delegate authority to the county to let and award a contract for the project indicated below.

<i>Location</i>	<i>Type of Work</i>	<i>CN+CE cost (estimated)</i>	<i>Year</i>
Kelly Island Walkway (aka Clements/Spurgin bike/walkway)	Construct bicycle/ pedestrian path	\$200,000 (\$173,160 federal & \$26,840 local match)	2004

### **Staff recommendations**

Staff recommends the Transportation Commission delegate its authority to let, award, and administer the contract for this project to Missoula County contingent on:

- A bid amount and construction engineering costs within the maximum funding cap of \$173,160 (federal) plus \$25,480 (local match) per the state/local agreement, and
- concurrence of the Chief Engineer.

### **Notes/discussion**

### **Commission action**

Agenda item: 09

Staff person handling: Sandra Straehl

Date/location: August 11, 2004 in Baker, MT

Item: **Construction projects on the Urban Highway System**  
*City of Bozeman, City of Missoula, Missoula County*

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### **Background**

The cities of Bozeman and Missoula and Missoula County are planning to design and build transportation improvement projects on the Urban Highway System. The Bozeman project will be funded with local gas tax funds. The Missoula city project will be funded with a local SID. The Missoula county project will be funded with local gas tax funds. The projects will be designed with input and concurrence from MDT staff.

Listed below are the locations, scopes and estimated costs of the projects; location maps are attached.

<u>Location</u>	<u>Type of work</u>	<u>Cost (estimated)</u>	<u>Calendar year</u>
Kagy Blvd. (U-1212)	-Pavement repair, 2” overlay	\$65,500	2004
475’ East of 19 <sup>th</sup> Ave. to 11 <sup>th</sup> Ave.	-Marking replacement		
South Avenue (U-8120)	Construct to 3-lane	\$600,000	2005
Clark St. to Grant St.	-Three-lane w/bike lane, no on-street parking <b>or</b> -3-lane with on-street parking and bike lane		
Clements (U8101)	Overlay	\$150,000	2004
South Ave to 7 <sup>th</sup>			

### **Staff recommendations**

On behalf of Bozeman and Missoula (city and county), as required by MCA 60-2-111, staff recommends the Transportation Commission approve the projects and delegate its authority to let, award, and administer the contracts for these projects to the cities of Bozeman and Missoula and Missoula County pending concurrence of MDT’s chief engineer.

### **Notes/discussion**

### **Commission action**

Agenda item: 10

Staff person handling: Joel Marshik

Date/location: August 11, 2004 Baker MT

Item: **Amend access control resolution** *NH 5-3(60)109*  
Kalispell bypass – Flathead County, MT

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## **Background**

The Kalispell bypass was identified as part of the preferred alternative in the US 93 Somers to Whitefish West Environmental Impact Statement (EIS) and subsequent Record of Decision (ROD)). The purpose was to remove traffic from the congested areas of Kalispell by providing a direct north-south route around Kalispell for truck traffic and others for whom Kalispell is not a destination.

A final alignment was selected and a 280-foot corridor was reserved for the future bypass. Final design has been on hold until recently, when special federal moneys were dedicated to the completion of design and the purchase of right-of-way. Until now, only passive acquisition of right-of-way occurred, which means that if a willing seller approached MDT, and a fair price was negotiated, MDT would acquire the property. Condemnation was not considered in these situations.

MDT is moving forward on the final design and the acquisition of right-of-way for this project. Part of this process involves access management discussions, and what degree of access will be tolerated onto the bypass. It is the position of MDT, the Technical Advisory Committee (TAC), the city of Kalispell and Flathead County that only public road access be allowed onto the bypass, thereby preserving the through mobility and allowing the route to function strictly as a bypass, not as another commercial corridor parallel to the existing US 93 commercial corridor to the east.

Before moving forward with individual landowner negotiations, it is necessary to bring this concept before the Transportation Commission for approval.

**SCOPE OF WORK OF PROJECT** – Construct an entirely new facility to provide an alternate route for the traveling public as a bypass around Kalispell.

**LOCATION** – The bypass lies to the west of the current US 93 alignment, through mostly undeveloped agricultural lands. The alignment as identified in the EIS has been slightly modified, and the current proposed alignment is shown in Exhibit II.

**NEPA ENVIRONMENTAL DOCUMENTATION** – The Record of Decision (ROD) for the US 93 Somers to Whitefish West project selected the Kalispell bypass alternative B, with a four-lane south of US 2 and a four-lane with a median north of US 2 as the preferred alternative. This was signed in 1994, and allowed MDT to preserve a corridor for a future

bypass. It was assumed at that time that virtually all access rights would be purchased **to protect the future traffic operations** (EIS page 2-67). The *fair market value* discussion (below) will discuss the purchase requirement in more detail.

The west bypass was selected as the preferred alternative for the following reasons (as stated in the EIS):

- It will provide critical relief for congested areas in Kalispell. The bypass will reduce future year 2015 traffic in Kalispell by 9,000 vehicles per day.
- It will provide a much-needed alternate route for trucks and other vehicles not needing to stop in Kalispell.
- It will enhance the economic stability of downtown Kalispell.
- It will enhance residential property values in the central area of Kalispell.
- It is consistent with city and county plans.
- It is supported by the Kalispell city council and the Flathead county commissioners.

The alignment of the bypass in the EIS has been modified since the original ROD. A review of the EIS is currently taking place to see if it is still applicable. This will be completed shortly, but the outcome should not affect the bypass alignment. It may require an update of the EIS, which would cause more delays in the design and construction of the bypass.

**DISTRICT POSITION** – Loran Frazier, the Missoula district administrator, is in full support of the private access restrictions and public road connection treatments. The district staff has been instrumental in developing the access management approach for this corridor.

**CITY/COUNTY POSITION** – The city of Kalispell and Flathead County are both in support of the proposed private access restrictions and public road connection treatments. Recent meetings with staff from the city of Kalispell, Flathead County and the Missoula district indicate that there is consensus that no private access onto the bypass will be tolerated, and the city and county have held this position in the face of rapid development of the area. They have been consistent in their review of proposed new developments in the corridor, stating that these will not have direct access onto the bypass.

**FAIR MARKET VALUE DISCUSSION** – The Kalispell bypass is a new facility on a new alignment. On August 20, 1997 the Transportation Commission passed access control resolution designating the Kalispell bypass as a limited access highway. MDT's 1992 Access Management Plan states *“Abutting property owners have no legal right of access to highways constructed in new locations. In this situation access control is effected through the access control resolution approved by the Highway Commission. In this case, no compensation would be paid for imposing access control. Appropriate compensation would be paid for land and improvement s acquired and for other legally compensable damages.”* Therefore, no appraised value to the access rights will ever appear in an appraisal for right-of-way acquisition. This does not preclude damages to the parcel being split and the remainders on either side no longer having access to any public facility, such as a county road.

**DEED RESTRICTIONS** – To make this public knowledge, the deeds need to reflect the fact that no access will be allowed. The deed and right-of-way agreement will use modified language that states “*ALSO, the Grantor hereby acknowledges that no rights of ingress and egress exist over and across the access control lines shown on said attached plat, as effected through the access control resolution for Highway Project NH 5-3(60)109 approved by the Highway Commission, filed with the Clerk and Recorder’s Office of Flathead County.*” This is different than reserving the right of reasonable access. The landowner will not have the option of applying for access in the future.

**OPPOSITION** – There is some opposition from local developers who see the bypass as an opportunity to provide easy access to and from properties directly adjacent to the bypass and the Kalispell area. There will be considerable pressure to allow additional at-grade private access points at the time of right-of-way negotiations. Right-of-way staff involved in the appraisal and negotiations have been cautioned not to commit to any additional private access points directly onto the bypass.

There is also some general opposition to a west bypass. Some in the community feel that an east bypass would be preferable.

**PORTION OF RESOLUTION TO BE AMENDED** – The original resolution did not spell out any of the public road connections. This portion is being amended to allow for public road approaches at the following locations: Airport Road, Valley View/Sunny Side Drive, Foy’s Lake Road, US Highway 2, Three Mile Drive, Four Mile Drive, Section 36 Intersection/Connector Road, and Garden Drive.

**EXHIBITS** – The following exhibits are attached for commission information and review:

*Exhibit I:* An overall map of the area, showing the location of the bypass.

*Exhibit II:* A detail showing the location of each allowed public road connection.

### **Staff recommendations**

Staff recommends approval.

### **Notes/discussion**

### **Commission action**

Agenda item: 11

Staff person handling: Joel Marshik

Date/location: August 11, 2004 in Baker, MT

Item: **Special speed zones**

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### **Background**

Staff has performed traffic and engineering studies for the following:

- a. Secondary 503 – Foy's Lake Road (near Kalispell)
- b. Urban route 1202 – Oak Street in Bozeman
- c. Secondary 529 – Chinook West
- d. Secondary 240 – Chinook South

Please see the attachments for more detail.

### **Summary**

The appropriate local government concurs with the recommendations put forth by MDT.

### **Staff recommendation**

Staff recommends the commission approve the special speed zones as proposed.

### **Notes/discussion**

### **Commission action**

Agenda item: 12

Staff person handling: Sandra Straehl

Date/location: August 11, 2004 in Baker, MT

Item: **Proposed Billings Urban System action change**

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### **Background**

The city of Billings and Yellowstone County, acting through the Billings Metropolitan Planning Organization (MPO), have requested that the Montana Transportation Commission add Bench Boulevard to the Urban Highway System. This route begins at the intersection with Lake Elmo Drive and extends north to the intersection with Main Street. This route is approximately 3.1 miles in length (see attached map).

Justification for this proposal is that Bench Boulevard provides an important north-south transportation corridor for a rapidly growing area in the Billings Heights. The road will also eventually connect to the planned "Bench Connector" project, which will relieve pressure on Main Street (Montana Highway 16), Montana's busiest road, which is presently operating at or near capacity. This will provide an alternative route for local traffic between the Heights and downtown Billings.

According to the 2000 Census, the urban population of Billings is 101,894, the largest urban area in the state. The percent of urban highway miles as a percent of all public roads within the Billings urban area is 13.8%. With the addition of Bench Boulevard to the Urban Highway System, the percent of urban highway miles will increase to 14.3%. This compares to 21.1% in Livingston, 20.2% in Havre, 15.8% in Lewistown, and 14.4% in Great Falls where each of these urban areas have experienced less than 5.0% population growth since the 1990 Census.

Essentially, this request would increase the percent of urban highway miles as a percent of all public roads within the Billings urban area by 1.5% compared to ten-year population growth of 14.8%. However, since the Urban Program is distributed on a per-capita basis, no urban area would be affected by the addition of this link.

Planning staff has reviewed this request and agrees that Bench Boulevard would be a logical addition to the Urban Highway System. In the past, the Transportation Commission has usually required that additions to the Urban and Secondary Highway Systems be offset by equivalent mileage reductions elsewhere in the urban area or county. However, in this case we do not recommend removing an equal amount of mileage from the Urban System in Billings due to increasing population growth in the area, the growth of the urban area as a result of the urban boundary adjustments following the 2000 Census, and the limited extent of the Billings Urban Highway System.

This route is presently functionally classified as an "urban collector" and therefore meets the eligibility requirements for this designation established by MCA 60-2-125. The proposed

system action is in conformance with: (a) the system classification general procedures and specific procedures of the December 7, 2000 Transportation Commission Systems Action Policy and (b) the requirement for participation with appropriate local officials.

**Staff recommendations**

Staff recommends the Transportation Commission approve the addition of Bench Boulevard to the Urban Highway System.

**Notes/discussion**

**Commission action**

Agenda item: 13

Staff person handling: Sandra Straehl

Date/location: August 11, 2004 in Baker

Item: **Shiloh Road Corridor – Billings**  
*STPU 1031(2)*

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### **Background**

The project increases are being presented to the commission consistent with the guidelines for project cost changes adopted July 17<sup>th</sup>, 2003. Costs for projects over \$2 million cannot increase more than 10% without commission approval.

### **Summary**

The Transportation Commission approved the Shiloh Road Corridor project on December 7, 1999. The project involves an environmental corridor analysis for the future reconstruction of Shiloh Road from Zoo Drive north to Grand Avenue. The original intent was to fund this segment with STP Urban funds and the city would improve the remaining segment, (Grand to Rimrock) with a combination of city and special improvement district (SID) funds. The city has completed the design for the entire northern segment and intends to let a contract this fall to reconstruct Shiloh Road between Poly Drive and Rimrock Road based on available funding. The Billings City Council passed a resolution to create a SID from Poly to Rimrock on July 12<sup>th</sup>. The Billings MPO requests to extend the STP Urban project north to that portion not constructed by the city between Grand Avenue and Rimrock Road. The project limits will be defined prior to programming the project.

MDT and the city and county have committed to improve Shiloh Road from Zoo Drive to Rimrock in the Billings Urban Transportation Plan. By extending the northern terminus of the STP Urban project MDT will be able to include the entire segment not constructed by the city in the environmental assessment (EA) allowing federal and state funds to be used on the project. Construction funding will be a combination of local funds and STP Urban funds. The initial project from Zoo Drive to Grand Ave is estimated at about \$15.5 million. Extending the limits north from Grand increases the estimate to about \$20.7 million. Actual project construction will be phased based on available funding. It is the PCC's intent to not disrupt other projects already in the program.

### **Staff recommendations**

Staff recommends the commission approve the additional scope and funds for the above project.

### **Notes/discussion**

### **Commission action**

Agenda item: 14

Staff person handling: Dave Galt

Date/location: August 11, 2004 in Baker, MT

Item: **Morning Star Drive project**

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### **Background**

CM 44 (14) Off-system paving project

Control No. 4647

Date	Action
3/23/00	Northern Cheyenne Tribe's TERO office submitted a proposal to use MACI funds to develop and construct a street-paving project in Lane Deer.
10/4/01	Staff from Northern Cheyenne TERO, MDT's Glendive district, and MDT's transportation planning division met in Lane Deer to begin the process of developing a funding, construction and maintenance agreement. <ul style="list-style-type: none"><li>• NC inquired of the planning staff if MACI funds could be transferred to the BIA to construct this project. Planning committed to research and determine whether or not this would be feasible. No commitment was made.</li><li>• It was agreed that MDT would design this proposed project.</li></ul>
10/11/01	Transportation Commission approved the project.
11/29/01	District received an e-mail message from Planning that they discussed the project with the BIA; the BIA supported MDT developing the project and BIA doing actual construction.
12/17/01	The Transportation Planning Division requested comments on a draft MOU and project development, construction and maintenance agreement. <ul style="list-style-type: none"><li>• Draft agreement stated that MDT would be responsible for all activities necessary to develop and implement the project. The project would be funded using MACI funds. Federal participation is 86.58% and requires a local match of 13.42%.</li><li>• Draft agreement contained the following language under H. Bids and Contract Administration, item 2: <i>"Once all approvals, project specific agreement, right-of-way acquisition, clearances and permits are obtained, the state and local agency will mutually agree to who will construct the project. The decision to have MDT bid, award and administer the construction contract in accordance with normal MDT procedures including obtaining concurrence in the award from FHWA <u>or</u> have the BIA construct the project will be made".</i></li></ul>
1/16/02	Transportation Planning Division submitted an agreement to the Northern Cheyenne for signatures and seal.

- 4/23/02 Planning submitted request to formally program the project.
- 5/1/02 FHWA approved the project.
- 8/1/02 Northern Cheyenne and BIA attend a preliminary field review meeting in Lame Deer to develop the scope of work for the project. Major scope of work items will include placement of 8" gravel, 3" paving, curb and gutter installed on both sides of Morning Star Drive and a 5 foot sidewalk on the south side of Morning Star Drive.
- 9/23/02 FHWA approved the project environmental document (CAT EX)
- 11/6/02 MDT conducted a public meeting at the Lame Deer High School. At this public meeting, district staff informed attendees that a decision would be made sometime in the future as to whom will construct this project.
- 5/12/03 District staff received e-mail notification from Transportation Planning that they had submitted documents to MDT Legal to start the process of transferring the funds to the BIA to construct the project.
- 6/18/03 District staff completed development of project plans and submitted them to Preconstruction Engineer Carl Peil for signature and approval.  
District is holding approved plans pending a decision as to who will construct the project.
- 7/21/03 Letter to Mike Black, BIA from Carrie Braine and Geri Small from the Northern Cheyenne Tribe requesting a meeting to discuss the barriers that had arisen and to find solutions to overcome them so that the project could move forward.
- 9/4/03 Director Dave Galt writes letter to Carrie Braine indicating MDT will not proceed with further projects involving the BIA paving highways for two reasons: one, the BIA uses force account rather than the competitive bidding process, and two, historic difficulties relating to compliance with MDT's construction specifications.

Please see attached fact sheet provided by Carrie Braine, as well as various correspondence regarding the project.

**Staff recommendation**

None

**Notes/discussion**

**Commission action**

Agenda item: 15

Staff person handling:

Date/location: August 11 in Baker, MT

Item: **Letting lists**

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**Background**

Staff will distribute the most current lists of upcoming projects slated for advertisement and bid letting.

**Staff recommendation**

Staff recommends approval of the letting lists.

**Notes/discussion**

**Commission action**

Agenda item: 16

Staff person handling: Joel Marshik

Date/location: August 11, 2004 in Baker, MT

Item: **Certificates of completion**

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### **Background**

Attached are certificates of completion for April, May and June of 2004.

### **Summary**

<i>Month</i>	<i>Original contract amount (monthly total)</i>	<i>Final payment amount (monthly total)</i>
April 2004	\$19,152,709.00	\$19,763,399.00
May 2004	\$1,626,413.00	\$1,537,741.00
June 2004	\$3,332,139.00	\$3,436,092.00
<i>Total</i>	\$24,111,261.00	\$24,737,232.00

### **Staff recommendation**

Staff recommends approval.

### **Notes/discussion**

### **Commission action**

Agenda item: 17

Staff person handling: Mark Wissinger, Construction Engineer

Date/location: August 11, 2004 in Baker, MT

Item: **Work/change orders**

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### **Background**

Attached are work orders for May and June 2004.

### **Summary**

<i>Month</i>	<i>Total</i>
May 2004	\$1,038,074.19
June 2004	\$1,742,417.84
	<u><b>\$2,780,492.03</b></u>

### **Staff recommendation**

Staff recommends approval.

### **Notes/discussion**

### **Commission action**

Agenda item: 18a

Staff person handling: Joel Marshik

Date/location: August 11, 2004 in Baker, MT

Item: **Liquidated damages**

**Weeksville East** – *FCP 6-1(93)69*

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### **Background**

Riverside Contracting, Inc. of Missoula, MT, overran the contract time by 30 days. We wrote the contractor on April 29, 2004 of the overrun of contract time. They were informed they had 30 days in which to respond if they intended to request a waiver from the commission. They were also informed that if a written reply was not received within 30 days, the liquidated damages would stand. As there was no response from the contractor, our recommendation is as noted below.

### **Summary**

Award date:	May 14, 2002	Proceed date:	June 17, 2002
Work began:	May 31, 2002	Work completed:	June 12, 2003
Contract time:	60 working days	Work extensions:	0 days
Time used:	62 days	Overrun:	2 days

### **Staff recommendations**

We recommend assessing 2 days at \$1,142.00 per day for a total of \$2,284.00.

### **Notes/discussion**

### **Commission action**

Agenda item: 18b

Staff person handling: Joel Marshik

Date/location: August 11, 2004 in Baker, MT

Item: **Liquidated damages**

**Last Chance Gulch to Prospect Avenue – NH 8-2(60)43**

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### **Background**

Helena Sand and Gravel, Inc. of Helena, MT overran the contract time by 40 days. Following discussions with Helena Sand and Gravel and a review of the project information, the department's recommendation is to waive 11 days and to assess 29 days of liquidated damages. They were informed they had 30 days in which to respond if they intended to request a waiver of additional days from the commission. They were also informed that if a written reply was not received within 30 days, the recommendation would stand. The contractor indicated verbally that they would not request a waiver of any additional days. Our recommendation is noted below.

### **Summary**

Award date:	August 9, 2002	Proceed date:	September 9, 2002
Work began:	September 23, 2002	Work completed:	October 9, 2003
Contract time:	45 working days	Work extensions:	5 days
Time used:	90 days	Overrun:	40 days

### **Staff recommendations**

We recommend assessing 29 days at \$1,142.00 per day for a total of \$33,118.00.

### **Notes/discussion**

### **Commission action**

Agenda item: 18c

Staff person handling: Joel Marshik

Date/location: August 11, 2004 in Baker, MT

Item: **Liquidated Damages**  
**Main Street-Miles City – STPP 2-1(38)3**

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### **Background**

Century Companies, Inc. of Lewistown, MT, overran the contract time by 25 days. We wrote the contractor on July 8, 2004 of the overrun of contract time. They were informed they had 15 days in which to respond if they intended to request a waiver from the commission. They were also informed that if a written reply was not received within 30 days, the liquidated damages would stand. As there was no response from the contractor, our recommendation is as noted below.

### **Summary**

Award date:	July 18, 2002	Proceed date:	September 1, 2002
Work began:	September 30, 2002	Work completed:	August 7, 2003
Contract time:	60 working days	Work extensions:	0 days
Time used:	85 days	Overrun:	25 days

### **Staff recommendations**

We recommend assessing 25 days at \$1,397.00 per day for a total of \$34,925.00.

### **Notes/discussion**

### **Commission action**

Agenda item: 18d

Staff person handling: Joel Marshik

Date/location: August 11, 2004 in Baker, MT

Item: **Liquidated damages**

**Plentywood – East & West – NH-STPE 22-2(19)41**

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### **Background**

Century Companies, Inc. of Lewistown, MT, after assuming the contract responsibilities from Northern Line Layers of Billings, MT overran the contract time by 29 days. After a review of the project information, the department's recommendation is to waive 7 days and to assess 22 days of liquidated damages. They were informed they had 15 days in which to respond if they intended to request a waiver of additional days from the commission. They were also informed that if a written reply was not received, the recommendation would stand. No response was received by the contractor. Our recommendation is noted below.

### **Summary**

Award date:	July 18, 2002	Proceed date:	August 19, 2002
Work began:	August 27, 2002	Work completed:	September 9, 2003
Contract time:	60 working days	Work extensions:	0 days
Time used:	89 days	Overrun:	29 days

### **Staff recommendations**

We recommend assessing 22 days at \$1,142.00 per day for a total of \$25,124.00.

### **Notes/discussion**

### **Commission action**

Agenda item: 19

Staff person handling: Dave Galt

Date/location: August 11, 2004 in Baker, MT

Item: **Contract award**

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### **Background**

At the July 22, 2004 bid letting, three bids were received for two Livingston projects.

Project(s):   CM 7406(5)   *Chinook To K St - Livingston*  
                  CM 7410(2)   *Geyser-Park To F St-Livingston*  
Engineers' estimate   \$473,182.36

<i>Bidder Name</i>	<i>City</i>	<i>As Read Amount</i>
1   Riverside Contracting, Inc	Missoula	\$546,525.86
2   Big Sky Asphalt, Inc	Bozeman	\$578,723.03
3   J T L Group, Inc	Belgrade	\$607,197.70

There were no errors or omissions in the low bid which was 15.5 percent over our engineers' estimate. However, these projects are funded with fixed CM funds that are capped. Since the bids exceed the amount of available funding, staff contacted the city of Livingston to see if they would be interested in using their urban funds to cover the shortfall.

At their August 2 conference call meeting, the commission decided to withhold action on this contract pending the city's response. The city of Livingston's response is attached.

### **Summary**

There are insufficient funds to award these projects as bid.

### **Staff recommendations**

Staff recommends rebidding the projects in a format that contains alternates as part of an upcoming letting. Staff also recommends the commission consider a policy revision that allows staff to alert bidders during the invitation for bid that certain projects are cost-constrained and may not be awarded even if the bids are within the guidelines for award.

### **Notes/discussion**

### **Commission action**

Agenda item: 20

Staff person handling: Dave Galt

Date/location: August 11 in Baker, MT

Item: **Commission discussion and public comment**

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**Items for discussion**

- Engineers' estimate versus bid prices (attachments provided)
- Cost of traveling to remote locations
- Issues formation dialogue – construction on tribal lands (attachments provided)

Agenda item: 21

Staff person handling: Dave Galt

Date/location: August 11, 2004 in Baker, MT

Item: **Confirm commission schedule**

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The commission is currently scheduled for the following meetings for the remainder of 2004.

- *meetings*
  - October 13 – Polson
  - December 10 – Helena
- *conference calls*
  - August 30, 2004
  - October 12, 2004
  - November 15, 2004
  - December 13, 2004

### July 2004

Su	Mo	Tu	We	Th	Fr	Sa
					1	2 3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

### August 2004

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

### September 2004

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3 4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

### October 2004

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

### November 2004

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

### December 2004

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3 4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

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